



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 01/10/06
AGENDA ITEM 3
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Appeal of Planning Commission Decision of Denial of Use Permit No. PL-2005-0552 – Request to Operate a Tattoo and Piercing Establishment - The Property is Located at 22540 Foothill Boulevard, Unit A

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution finding the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) and, uphold the Planning Commission decision denying the Use Permit application, subject to the attached findings.

DISCUSSION:

On November 17, 2005, the Planning Commission denied (4:3:0) an application for a conditional use permit to operate a tattoo establishment at a retail/office complex on Foothill Boulevard. A tattoo establishment is a conditional use in the *Central City-Commercial (CC-C) Subdistrict*. The purpose of the *CC-C Subdistrict* is to, "establish a mix of business and other activities that will enhance the economic vitality of the downtown area." Conditional approval is required to assure that the proposed use is permitted where there is a community need, and to assure that the use is in harmony with the area and with City policies.

The majority of the Planning Commissioners were of the opinion that, while tattoo establishments add diversity to the community, the community need is already being met in the downtown area and that the present community need in downtown is for more diverse retail uses (see Exhibit E).

There are currently five approved and licensed tattoo establishments in the City (see Exhibit A). Two establishments are downtown: Russell City Tattoo and Piercing over the Eden Jewelry and Loan Company at Mission Boulevard and B Street; and PinPoint Tattoos, one block to the east of the proposed establishment along Second Street between A and B Streets. The other three establishments are located to the south of the downtown area: Peter's Skin Art Tattooing at 381 Jackson Street, Secret Sidewalk at 27655 Mission Boulevard and Twisted Illusions at 555 West Tennyson Road. Built to Last Tattoo Studio, located one block north of the proposed use at 22431 Foothill Boulevard, is operating without the required Conditional Use Permit. The business operator was notified of his non-compliance in late December and, if necessary, the City will pursue with code enforcement action at the end of January.

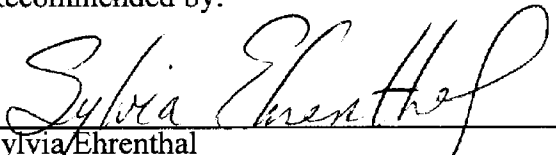
The appellants, Corey and Kelly Hensley, state that the community need for their business is evident because tattoo services are mainstream and they would be providing services to the fastest growing group of people who seek tattooing services: suburban, middle class professionals. The appellants have stated that the business would allow them to relocate to the City from their present home in Livermore.

The property owner supports the application, and his letter of support is attached as Exhibit F. An adjacent business operator has submitted an unsigned letter encouraging the Council to uphold the Planning Commission's decision to deny the use permit (Exhibit G). Christian Zaballos, a local developer and business owner, has sent an email requesting the Council deny the appeal (Exhibit H).

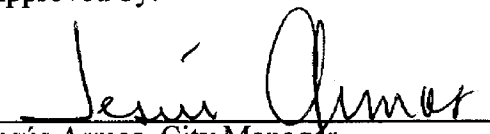
Prepared by:


Arlynne J. Camire, AICP
Associate Planner

Recommended by:

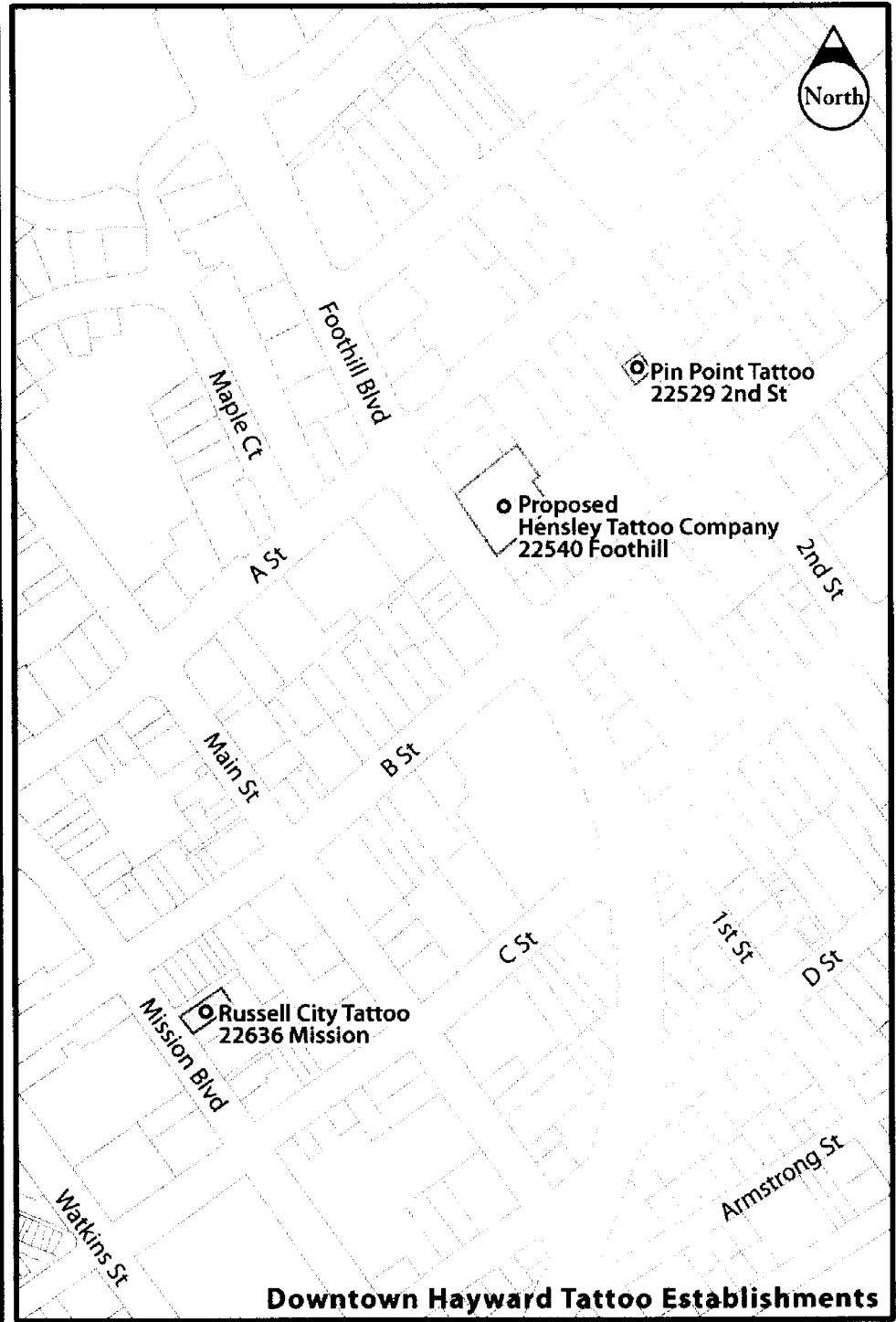
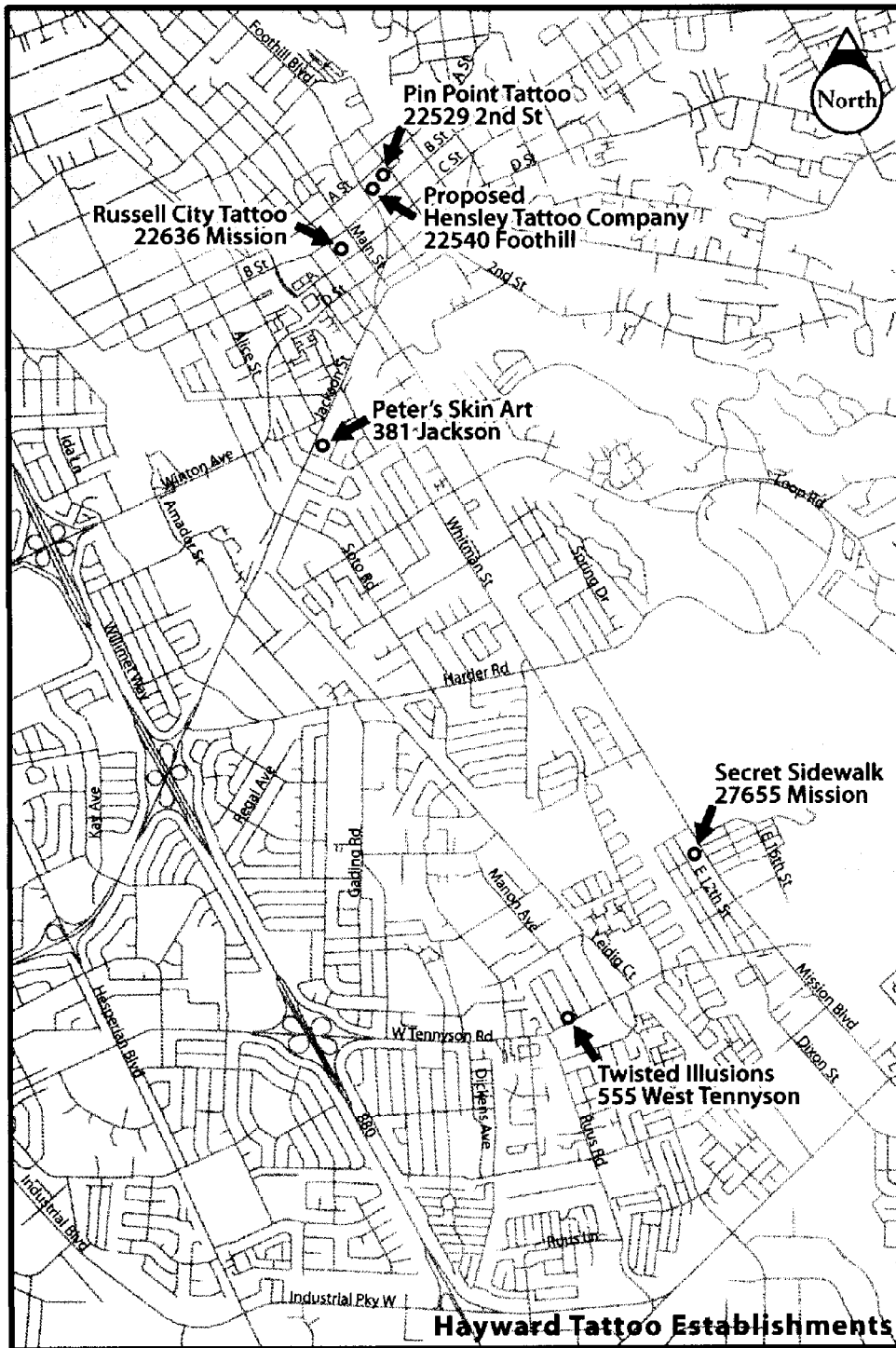

Sylvia Ehrental
Director of Community and Economic Development

Approved by:


Jesús Armas, City Manager

Attachments:	Exhibit A.	Map showing location of existing establishments
	Exhibit B.	Appeal Letter from the Hensleys
	Exhibit C.	Personal Information from the Hensleys
	Exhibit D.	Planning Commission Report, November 17, 2005
	Exhibit E.	Planning Commission Meeting Minutes, November 17, 2005
	Exhibit F.	Letter of Support from Property Owner
	Exhibit G.	Letter Encouraging Denial from Adjacent Business Operator
	Exhibit H.	Email Requesting Denial from Christian Zaballos
	Exhibit I.	Findings for Denial
		Draft Resolution

1/4/06



November 21, 2005

City of Hayward
777 B Street
Hayward, CA 94541

Re: Conditional Use Permit No. PL-2005-0552
22450 Foothill Boulevard, Suite A, Hayward, California, 94541
Request to operate a Tattoo and Piercing Establishment

To all whom it may concern,

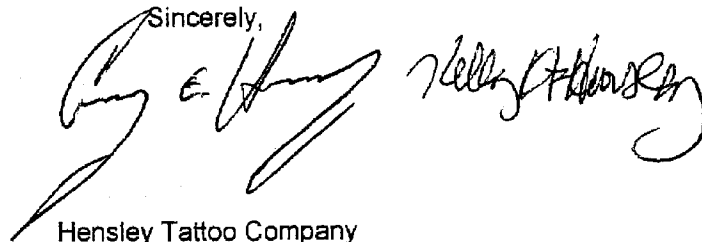
We, Corey and Kelly Hensley appeal the Planning Commissions denial of our conditional use permit number PL-2005-0552 to the City Council.

The community need for our business is evident, the market demographic for tattoo services is now skewed heavily toward mainstream customers. Tattooing is now one of the fastest growing service business' in the United States. The suburban, middle class professional is the largest group seeking tattoo related services. Tattooing is recognized by government agencies as both an art form, and a profession. Currently, tattooing is more popular than ever and is also more widely accepted as part of our society.

Not one Citizen or Business appealed our application. The Hayward Police Department also had no opposition.

Hensley Tattoo Company has agreed to all conditions required. We are asking that our appeal be approved, and look forward to being part of the Hayward business community.

Sincerely,

Handwritten signatures of Corey and Kelly Hensley. The signature on the left is 'Corey Hensley' and the signature on the right is 'Kelly Hensley'.

Hensley Tattoo Company
Corey and Kelly Hensley
1205 Heather Lane
Livermore, CA 94551
(925) 294-9965

Corey and Kelly Hensley
1205 Heather lane
Livermore, CA, 94551
home (925)294-9965
cell (925)321-6270

Corey was born Saint Rose hospital in Hayward ca. in 5-7-70
Kelly was born at Kaiser of Hayward ca. in 2-11-79
and were married in 5-31-97
daughter Ava Hensley born 8-6-05
It is our intention to raise our family in Hayward.
Hayward ca. is our home town.

Studio rental-\$1,200.00 monthly
owner, Raj Chabra
(925)283-7088
Since Sept.05
home rental- \$1,200.00 monthly
owner, Cleve Beck
(925)846-2411
we've lived here since 5-5-01

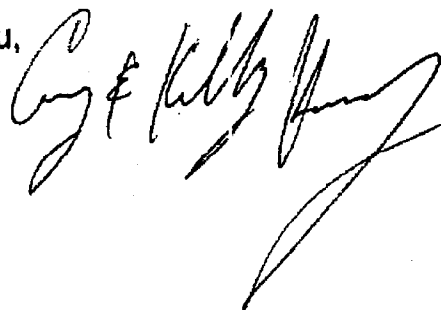
previous residence, Pacific apartments, 1998-2001
owner, David Livingston
p.o. box 2466
Castro Valley, CA, 94546

Bank, Wells Fargo
customer since, 1983

Past employers,
Popeyes, 1997-2001
Twisted Illusions, 2001-2002
House of Pain, 2002-2004
self Employed, 2004-present

Please feel free to call our home for any information or to view the
studio.

Thank you,





**CITY OF HAYWARD
AGENDA REPORT**

Meeting Date 11/17/05
Agenda Item 2

TO: Planning Commission

FROM: Arlynn J. Camire, AICP, Associate Planner

SUBJECT: Use Permit No. PL-2005-0557 – Corey and Kelly Hensley (Applicants)/Raj Chabra (Owner) – Request to Operate a Tattoo and Piercing Establishment

The Property is Located at 22540 Foothill Boulevard, Unit A, between "A" and "B" Streets in the Central City-Commercial (CC-C) Subdistrict

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines Section 15301, Existing Facilities; and
2. Approve the application subject to the attached findings and conditions of approval.

DISCUSSION:

The applicants propose a tattoo and piercing establishment, to be called Hensley Tattoo Company. It would occupy an approximate 1,600-square-foot, first-floor tenant space in a two-story, multiple tenant commercial/office complex. The property contains two buildings that are occupied by several restaurants, personal services such as a hair salon, a billiards hall, and retail stores. The adjacent properties to the north contain Cycle Path and True Value Hardware. The properties to the south contain vacant tenant spaces, a medical marijuana establishment, and personal services. The properties to the west, across Foothill Boulevard contain Long's Drugs, The Daily Review, a nail shop, a restaurant, a document processing business and Copy Pacific. All properties are located in the *Central City-Commercial (CC-C) Subdistrict*.

A tattoo parlor is a conditional use in the *Central City-Commercial Subdistrict*. Conditional approval is required to assure that this use is permitted where there is a community need, and to assure that the use is in harmony with the area and with City policies. The General Policies Plan Map designates this property and surrounding properties as *Retail and Office Commercial*. This designation is used to indicate areas where office and retail commercial uses are encouraged and reflects a variety of land uses.

Project Description

The applicants, Corey and Kelly Hensley, will operate the Hensley Tattoo Company. Corey Hensley is a tattoo artist and piercer and his wife, Kelly, is the business manager. He is a member of the Alliance of Professional Tattooists and has ten years of experience as a professional tattoo artist and piercer (Attachment B). He acquired his professional experience in three tattoo studios: Twisted Illusions in Hayward, House of Pain in Santa Clara and Popeye's Imports in San Jose. He wrote the operating procedures, designed the interiors, and managed two locations of Popeye's Imports. Mr. Hensley would be available by appointment Tuesday through Sundays and the establishment would have regular business hours on these days from noon to 10 pm. The establishment would include an office, a clean room, two tattoo booths, one piercing booth and a showroom that would contain a jewelry display case (Attachment C). Staff recommends that each booth be equipped with a locker that could be used by customers to store their personal property. In addition, a condition of approval requires that the business manager actively monitor the front of the business to prevent loitering. The applicants propose to install a 24-hour video surveillance system.

To assure that State requirements are met, a condition of approval requires the verification that customers are at least 18 years of age by way of valid identification and signature of a standard release form (Attachment D). In addition, signs and California Code Section 653 are required to be posted stating that no persons under the age of 18 years are permitted on the premises (Attachment E).

The tattoo and piercing establishment is expected to generate very few vehicle trips. The applicant anticipates approximately three to five tattoo and piercing customers a day. Customer parking would be available in the posted 2-hour zones on Foothill Boulevard and on surrounding streets. In addition, parking would be available in two municipal parking lots. Lot No. 2 would be available for a 5-hour time limit and is located on the west side of Foothill Boulevard behind the retail spaces. During a typical weekday, approximately one-third of the 142 parking spaces of Lot No. 2 are available. Lot No. 6 is located on the northerly side of "A" Street, between Foothill Boulevard and Second Street. On a typical weekday, two-thirds of the 96 parking spaces are available. There is also limited customer and tenant parking located on-site which is accessible through a driveway entrance on "A" Street. Due to the manner in which the business is operated and the type of business, it is anticipated that the capacity of the parking lots will not be impacted.

In order to operate a tattoo parlor in Alameda County, all applicants are required to submit applications to Alameda County Department of Environmental Health. Mr. Hensley has applied for his County clearance (Attachment F). As part of the application process, a designated medical waste hauler, to dispose of the needles used for the procedures, is required to be disclosed to the Department of Environmental Health. Mr. Hensley has secured the services of Sharps Compliance Corporation to dispose of medical waste and has been issued a Medical Waste Generator's Permit (Attachment G). In addition, applicants must provide proof of vaccination or evidence of immunity of Hepatitis B or provide a certificate of proof of vaccination. Mr. Hensley has received all required immunizations. All applicants must demonstrate to the Department of Environmental Health, by examination, knowledge of basic tattooing techniques, health and safety precautions, and sanitation and sterilization techniques

designed to prevent cross contamination. Furthermore, proof of completion of a Local Enforcement Agency approved health and safety class is required to be provided.

At this time, the applicants do not intend to install a wall sign but intend to install a window sign (Attachment H).

Environmental Review

The project is exempt from environmental review as defined by the California Environmental Quality Act (CEQA) guidelines Section 15301, Existing Facilities.

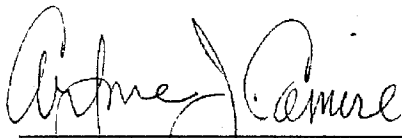
Public Notice

On October 11, 2005, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Chamber of Commerce, Downtown Improvement Advisory Board, and Hayward Area Planning Association. The Police Department is not opposed to the use with the recommended conditions of approval. On November 7, 2005, a Notice of Public Hearing for the Planning Commission meeting was mailed. No public comments have been received.

CONCLUSION:

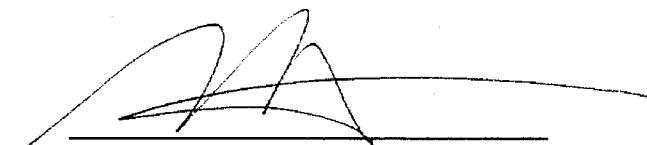
The use is compatible with the General Plan and the Central City-Commercial Zoning Subdistrict. It will generate few vehicle trips and will not create noise. It is the opinion of staff that it will have little or no impact on the adjacent commercial establishments.

Prepared by:



Arlyne J. Camire, AICP
Associate Planner

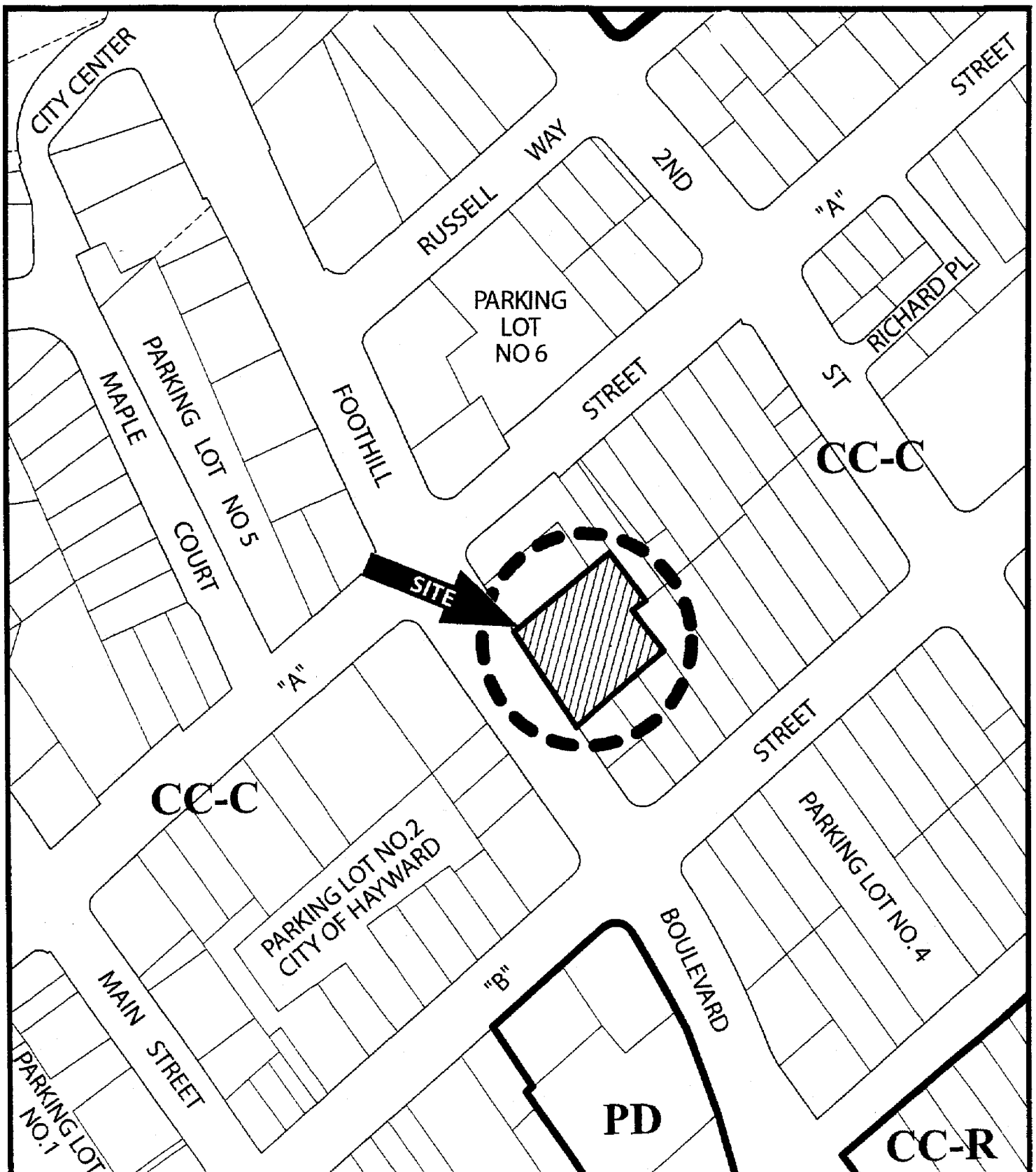
Recommended by:



Richard Patenaude, AICP
Acting Planning Manager

Attachments:

- A Area and Zoning Map
- B Alliance of Professional Tattooists Certificate of Membership
- C Floor Plan
- D Standard Release Form
- E California Code Sections 652 and 653
- F Letter of Acknowledgment from Alameda County Health Care Services Agency
- G Alameda County Environmental Health Medical Waste Generator's Permit
- H Window Sign Design
- I Findings for Approval
- J Conditions of Approval



Area & Zoning Map

PL-2005-0552 UP

Address: 22540 Foothill Blvd

Applicant: Corey & Kelly Hensley

Owner: Raj Chabra

CC-C - Central City Commercial

CC-R - Central City Residential

PD - Planned Development





Associate Tattooist Member

This certifies that

Corey Hensley 1457 AT

subscribes to and abides by the principles and practices of health and safety in tattooing as endorsed by the Alliance of Professional Tattooists, Inc. Thereby accepting the professional standards and stringent infection control procedures as incorporated therein.

KNOWLEDGE • EXPERIENCE • ACTIVISM

Ray T. Shibe
President

K. Heeg
Secretary

COREY HENSLEY

1457 AT

Member since 10/99

428 Fourth St., #3
Annapolis, Md 21403

410-216-9630

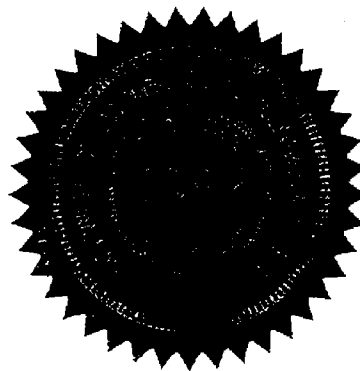
410-216-9530 fax



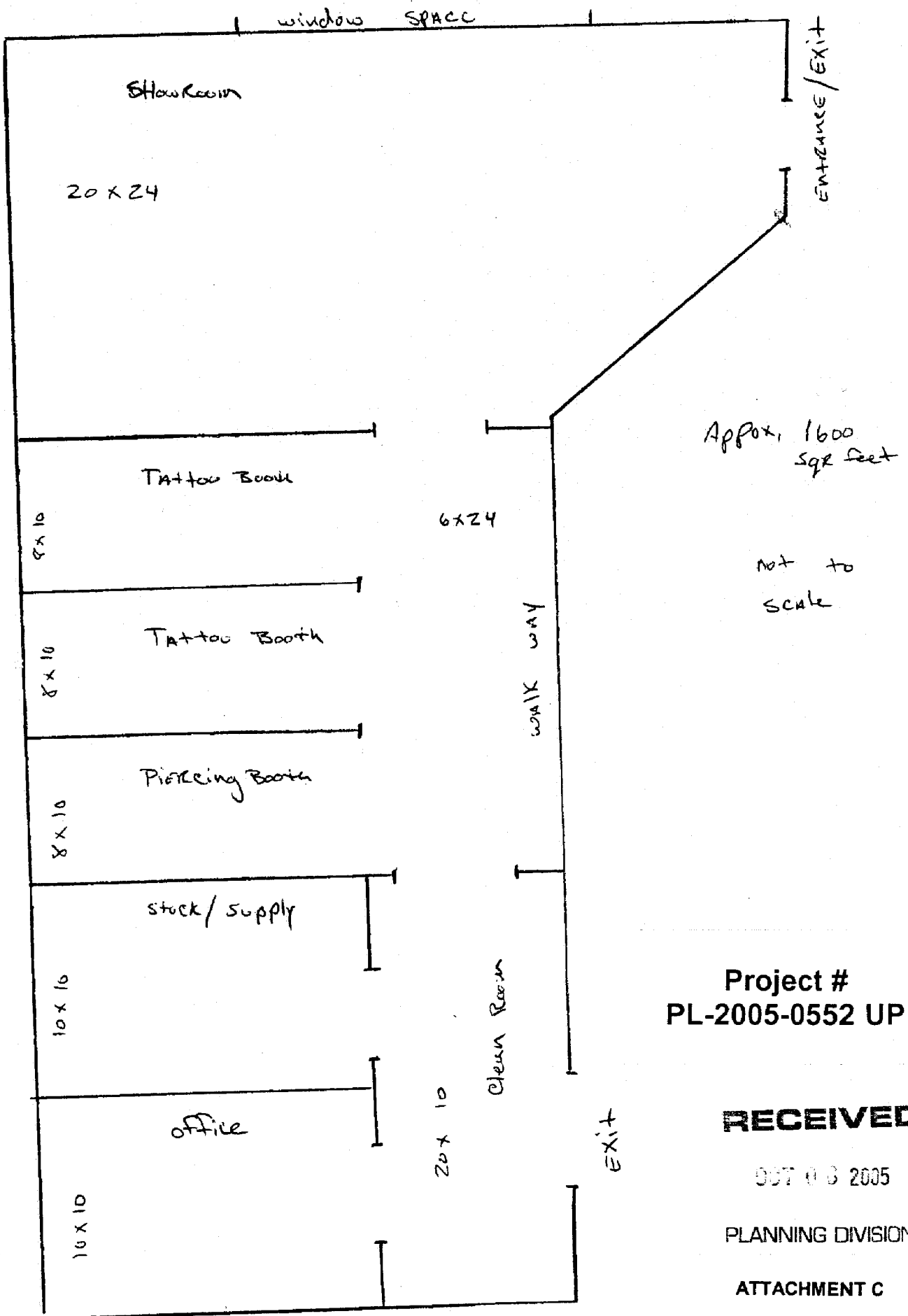
OCTOBER
MONTH

2000

D-6



Hensley 144200 CO.



Project #
PL-2005-0552 UP

RECEIVED

007 00 2005

PLANNING DIVISION

ATTACHMENT C

By Corey Hensley

Standard Release Form

I am at least 18 years old. I don't have a heart condition. I don't have epilepsy. I haven't had hepatitis within the last year. I'm not a hemophiliac (bleeder). I'm not under the influence of drugs or alcohol.

To my knowledge, I don't have any physical, mental, or medical impairment or disability which might affect my well-being as a direct or indirect result of my decision to have any tattoo-related work done at this time.

I agree to follow all instructions concerning the care of my tattoo while it is healing. I agree that any touch-up work needed, due to my own negligence, will be done at my own expense. I understand that if my skin color is dark, the colors will not appear as bright as they do on light skin.

Being of sound mind and body, I hereby release any and all persons representing _____, (also known as _____) from all responsibility. I accept any and all responsibility myself for any consequences that might stem from my decision to have any tattoo-related work done by _____.

I agree not to sue _____ in connection with any and all damages, claims, demands, rights, and causes of action of whatever kind or nature, based upon injuries or property damage to, or death of myself or any other persons arising from my decision to have tattoo-related work done at this time, whether or not caused by any negligence of _____.

I agree for myself, my heirs, assigns, and legal representatives to hold _____ harmless from all damages, actions, causes of action, claim judgements, costs of litigation, attorney's fees, and all other costs and expenses which might arise from my decision to have any tattoo-related work done by _____.

I agree to pay for any and all damages and injuries to any and all persons and property belonging to _____, or any other person to whom _____ may become liable contractually or by operation of law, caused by, or resulting from my decision to have any tattoo-related work done by _____.

I agree to leave the premises of _____, or any other establishment where _____ is engaged in business, promptly upon request, for any reason whatsoever, by any agent or employee of _____.

I agree that these waivers also pertain to and are designed to protect any and all establishments where _____ conducts business.

I represent and warrant to _____ that the following information is true and correct.

Please Print

Name: _____
Last First Initial Age Date

Address: _____
Street City State Zip Phone

I have read and understood each of the above paragraphs.

Tattoo: _____

Signature: _____

Location: _____

§ 652. (Operative until January 1, 2005) In-
 section for performing or offering to perfor
 y piercing upon a person under the age of
 18 years. (a) It shall be an infraction for any
 person to perform or offer to perform body
 piercing upon a person under the age of 18
 years, unless the body piercing is performed in
 the presence of, or as directed by a notarized
 writing by, the person's parent or guardian.
 (b) This section does not apply to the body
 piercing of an emancipated minor.
 (c) As used in this section, "body piercing"
 means the creation of an opening in the body
 of a human being for the purpose of inserting
 jewelry or other decoration. This includes, but
 is not limited to, piercing of a lip, tongue,
 nose, or eyebrow. "Body piercing" does not
 include the piercing of an ear.
 (d) Neither the minor upon whom the body
 piercing was performed, nor the parent or
 guardian of that minor, nor any other minor is
 liable for punishment under this section.
 (e) This section shall remain in effect only
 until January 1, 2005, and as of that date is
 repealed, unless a later enacted statute, that is
 enacted before January 1, 2005, deletes or
 extends that date. Added Stats 1997 ch 741 § 3
 (AB 99), operative until January 1, 2005.

§ 653. Tattooing or offering to tattoo person
 under age of eighteen. Every person who tat-
 toos or offers to tattoo a person under the age
 of 18 years is guilty of a misdemeanor.

As used in this section, to "tattoo" means to
 insert pigment under the surface of the skin of
 a human being, by pricking with a needle or
 otherwise, so as to produce an indelible mark
 or figure visible through the skin.

This section is not intended to apply to any
 act of a licensed practitioner of the healing
 arts performed in the course of his practice.
 Added Stats 1955 ch 1422 § 1 p 2590.

➔ *Witkin Summary (9th ed) Torts § 10; Cal
 Jur 3d (Rev) Criminal Law § 1975.*

§ 653b. Added by Code Amdts 1873-74 ch
 614 § 37 p 435 as § 654, renumbered § 653b
 by Stats 1905 ch 503 § 1 p 658, and repealed
 by Stats 1929 ch 161 § 10.4, School Code and
 Supplemental Acts p 303. See Ed C §§ 44811,
 87708.

§ 653c. Added by Stats 1905 ch 505 § 1 p
 666, amended by Stats 1927 ch 257 § 1 p 475,
 Stats 1929 ch 793 § 1 p 1602, Stats 1931 ch
 1144 § 1 p 2430, and repealed by Stats 1937
 ch 90 (Lab C § 8100) p 328. See Lab C
 §§ 1810-1815.

§ 653c-1. Added by Stats 1933 ch 632 § 1 p
 1644 and repealed by Stats 1937 ch 90 (Lab C
 § 8100) p 328.

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES

1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510) 567-6777

RECEIVED

OCT 27 2005

PLANNING DIVISION

October 24, 2005

MW-OT-0135

Mr. Corey E. Hensley
C/o Hensley Tattoo Company
22540 Foothill Blvd. Ste. A
Hayward, CA. 94541

Re: Tattooing, Body Piercing, and Permanent Cosmetic Act

This letter acknowledges that this office has received the following as required by the California Health and Safety Code section 119303 (a) (2) & (3).

1. Your completed registration form.
2. Your check of \$26.00 as a registration fee.

At this time, as the local enforcement agency has not received a copy of the standards for tattoo parlors adopted by the Department of Health Services. You will be informed by mail, as soon as these standards are in place.

You have already received a copy of the Health and Safety Code with your application for your review. Thank you for your immediate attention on this matter. If you have any more questions you may contact me at 567-6756.

Sincerely,

Jorge Goitia, SrREHS

Alameda County

Office of Solid/Medical Waste Management

Alameda County Environmental Health
1131 Harbor Bay Parkway Alameda, CA 94502-6540 (510) 567-6700

MEDICAL WASTE GENERATOR'S PERMIT

Mail to:

HENSLEY TATTOO COMPANY
22540 FOOTHILL BLVD. STE A
HAYWARD, CA 94541

Facility Name

HENSLEY TATTOO
COMPANY
22540 FOOTHILL BLVD A
HAYWARD, CA 94541

Permit Expires: 10/23/2006

Facility Owner Name

HENSLEY TATTOO COMPANY

Facility ID

FA0306173

Valid Dates (from-to)

10/24/2005 - 10/23/2006

Date Printed

10/27/06

Program Description

3002

MED WASTE SM QTY GEN (W/O ON-SITE
TREATMENT)

Permit Number

PT0307358

By Authority of:

MEE LING TUNG, Director, Department of Environmental Health of Alameda County

Permit NOT TRANSFERABLE

Permit may be revoked or suspended for:

- non payments of fees
- violations of the California Health and Safety Codes and related Statutes
- imminent health hazards

A COPY OF THIS PERMIT MUST BE KEPT ON FILE AT THE FACILITY AT ALL TIMES



FINDINGS FOR APPROVAL
Use Permit Application No. PL-2005-0552
Corey and Kelly Hensley (Applicants)
Raj Chabra (Owner)
22540 Foothill Boulevard, Unit A

1. The proposed project is Categoricaly Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.
2. The tattoo and piercing parlor is desirable for the public convenience or welfare in that residents and customers with body adornment needs will be accommodated.
3. Tattoos and piercings are socially acceptable forms of body adornment. Therefore, the tattoo, permanent cosmetics and piercing parlor will not impair the character and integrity of the adjacent commercial businesses and zoning district. In addition, the tenant space was formerly occupied by a karate studio which is considered a more intensive use than the tattoo and piercing establishment in terms vehicle trip generation. The tattoo and piercing establishment will generate fewer vehicle trips per day than the karate studio.
4. The tattoo and piercing parlor will not be detrimental to the public health, safety, or general welfare in that qualified tattoo artists and piercers will observe sanitary and safe practices. In addition, all needles will be disposed in an appropriate manner by a qualified medical wastes hauler as required by the Alameda County Department of Environmental Health.
4. The tattoo and piercing parlor will be in harmony with applicable City policies of the Zoning Ordinance and General Plan in that the services provided serve a community need that is compatible with surrounding commercial businesses.

CONDITIONS OF APPROVAL
Use Permit Application No. PL-2005-0552
Corey and Kelly Hensley (Applicants)
Raj Chabra (Owner)
22540 Foothill Boulevard, Unit A

1. Use Permit Application No. PL-2005-0552 is approved subject to the conditions listed below. This approval is void one year after the effective date of approval unless the business has been established in accordance with these conditions of approval or unless an extension is approved. Any modification to this permit shall require review and approval by the Planning Director. All conditions shall be met prior occupancy of the building and prior to the issuance of a business license. A request for a one-year extension-of-time, approval of which is not guaranteed, must be submitted to the Planning Division at least 30 days prior November 17, 2006.
2. The tattoo and piercing establishment shall observe appropriate sanitary practices include proper disposal of materials used during the tattoo process. In addition, the tattoo artist is required to meet all of the requirements of the County of Alameda Environmental Health Department, including registration as a tattoo artist and present evidence thereof to the City of Hayward prior to onset of business.
3. A sign permit shall be approved prior to installation of any wall sign. The final design and size of the sign shall be to the satisfaction and be approved by the Planning Director.
4. The property owner and applicants shall maintain in good repair all building exteriors, walls, lighting, drainage facilities, driveway and parking area. The premises shall be kept clean and free of weeds, and prior to occupancy any weeds located along the base of the building on the south side shall be removed. Any graffiti painted on the property shall be painted out or removed within 72 hours of occurrence.
5. The trash enclosure located in the rear yard shall be repaired.
6. Outdoor storage of recyclables and other items shall not be allowed. All trash and recyclables shall be stored in proper receptacles.
7. The business hours shall be noon to 10:00 pm. If the applicant wishes to extend business hours, the Planning Director shall review and act on any changes.
8. The business manager shall actively monitor the front of the business to prevent loitering.
9. The applicants shall post a sign at the entrance that states, "No Persons Under Age of 18 Years Permitted."
10. The applicants shall post California Penal Code 653 which reads "Every person who tattoos or offers to tattoo a person under the age of 18 years is guilty of a misdemeanor.

As used in this section, to "tattoo" means to insert pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin. This section is not intended to apply to any act of a licensed practitioner of the healing arts performed in the course of his practice in unobstructed view to customers."

11. The applicants shall post the business license and California Department of Health Certificate in clear unobstructed view to the public.
12. Lockable storage cupboard or locker shall be provided in each booth for customers to secure their personal belongings while using the services of the business.
13. If interior tenant improvements are to be made, plans shall be submitted to the City of Hayward Building Department for building permit review and approvals.
14. Portable fire extinguishers shall be installed within the tenant space. Minimum size and type of fire extinguisher shall be 5 lb., dry-chemical, with a rating of 2A:10BC. Fire extinguishers shall be installed in accessible locations as approved by the Fire Department.
15. The applicants are responsible for contacting the City of Hayward Hazardous Materials Office for further regulations on medical waste disposal laws, as they pertain to city, county and state regulations. Please contact Hugh Murphy at (510) 583-4924.
16. A building (or tenant space) address shall be installed in a location on the front of the building so as to be visible from the street. Minimum size of numbers shall be 6-inches on a contrasting background.
17. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.

Chair Thnay closed the public hearing at 7:42 p.m.

Commissioner Peixoto moved the staff recommendation and Commissioner Bogue seconded it.

Commissioner Sacks commended the people that started to work on the landscaping and expressed support for the motion.

~~Commissioner Peixoto moved, seconded by Commissioner Bogue, and unanimously approved to find that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Sections 15301, Existing Facilities; and approve the Use Permit, subject to the conditions of approval.~~

2. Use Permit No. PL-2005-0557 – Corey and Kelly Hensley (Applicants) / Raj Chabra (Owner) - Request to Operate a Tattoo and Piercing Establishment – The Property is Located at 22540 Foothill Boulevard, Unit A

Staff report submitted by Associate Planner Camire, dated November 17, 2005, was filed.

Associate Planner Camire presented the staff report.

In response to Commissioner Lavelle's inquiry as to the number of tattoo and piercing establishments in Hayward, Associate Planner Camire indicated that there are establishments in the Tennyson area, one on Mission by Moreau High School, one at the corner of B Street and Mission, and one that was recently approved on Second Street by B Street. As far as the applicant's demonstration for community need for this kind of establishment, Ms. Camire indicated that the applicant has unique art which fulfills the community niche for different types of tattoos.

Chair Thnay opened the public hearing at 7:46 p.m.

Mr. Corey Hensley, co-applicant, expressed knowledge of the type of proposed establishment and mentioned that there has been reassurance in the tattoo community for a safe, sterile, clean, and professional atmosphere.

Commissioner Sacks, regarding the monitoring of loitering problems, asked the applicant if he concurred with the conditions of approval. Mr. Hensley expressed concurrence. Furthermore, Ms. Sacks asked for samples of his art work to be displayed.

In response to Commissioner Zermeno, Mr. Hensley indicated that the establishment would be community friendly with price ranging between \$100 and \$120 per hour subject to the location and style of tattoo. He added that the establishment will be marketed for clientele ranging from 25 to 45 years old.

Ms. Kelly Hensley, co-applicant, added that middle-age, suburban women are among the majority of prospective clients.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, November 17, 2005, 7:30 p.m.
777 B Street, Hayward, CA 94541**

Ms. Anderson expressed support for her son-in-law and daughter in their future business. She added that prospective clients include US Marines, who showed interest in patriotic tattoos.

Mr. and Ms. Wise, Milpitas residents, expressed support for the proposed establishment and they spoke highly of the applicants.

Chair Thnay closed the public hearing at 7:52 p.m.

Commissioner Bogue made a motion to deny the application as he did not agree with the findings of approval, did not think that the denial would impair the zoning district, and indicated that it would not serve the general welfare of the community.

Commissioner Peixoto seconded the motion.

Commissioner McKillop disagreed with the motion stating that she was impressed with the applicants. She added that the applicants are serious business people and have a product that is in demand for the community.

Commissioner Sacks disagreed with the motion concurring with Commissioner McKillop and also indicated that the applicants are responsible business people. She further added that other tattoo parlors seem to uphold to conditions of approval.

Commissioner Lavelle supported the motion expressing that tattoo businesses add to the diversity of the community; however, she thought the community need has already been met in the downtown area with the four businesses already in place. She added that there is more diverse retail needed in downtown Hayward and provided the different suggestions.

Commissioner Zermefio did not support the motion indicating that he had supported the approval of three parlors in the past and added that he did not find anything that would interfere with approving the proposed application.

Commissioner Peixoto concurred with the findings of approval but expressed that the need has already being met with the existing tattoo parlors in Hayward. He supported the motion.

Chair Thnay mentioned that in the past he voted for three tattoo businesses but agreed with Commissioner Lavelle that downtown Hayward needs more diversity.

Commissioner Bogue moved, seconded by Commissioner Peixoto, and approved, to accept that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines Section 15301, Existing Facilities; and to deny the application.

AYES: COMMISSIONERS Lavelle, Bogue, Peixoto
CHAIR Thnay
NOES: COMMISSIONERS Sacks, McKillop, Zermeno
ABSTAIN: COMMISSIONER None

Acting Planning Manager Patenaude reminded the applicant of the ten-day appeal period.

~~B. Amendment of Design Guidelines for Stonebrae Country Club (Formerly Blue Rock)~~

~~Staff report submitted by Project Planner Anderly, dated November 17, was filed.~~

~~Commissioner McKillop recused herself from any discussion due to a conflict of interest with this item.~~

~~Acting Planning Manager Patenaude made the report indicating that the applicant and staff came to a resolution from the differences encountered at the work session. In reference to footnote 5 regarding rear yards, he indicated that staff and the applicant have agreed to add at the beginning of the sentence, "as to each lot," so it will be clear that each lot will have a minimum of 15-foot usable rear yard.~~

~~Acting Planning Manager Patenaude indicated that the City reserves the right to intervene when it feels that there are actions taken possibly by the homeowners association or residents within the project, that are of variance with the guidelines or when the Design Review Committee of the Development has improperly interpreted the guidelines. He indicated that the language does not need to be added, but highlighted that the City has proper authority to act if the guidelines are not adhered to.~~

~~Assistant Attorney Conneely clarified that the CEQA referenced in the report to find that the project is categorically exempt is not accurate because the project has been reviewed already. She added that there is no further need for environmental review.~~

~~In response to Commissioner Peixoto's inquiry regarding authority, Acting Planning Manager Patenaude indicated that the role of the Design Review Committee and ultimately the homeowners association is to evaluate requests based on the approved design guidelines. Mr. Patenaude reiterated that during the development phase, the City will exercise its full power as a municipal agency to make sure that the conditions of approval are adhered to.~~

~~In regards to Commissioner Lavelle's inquiry regarding the manner in which the City will exercise its power, Acting Planning Manager Patenaude indicated that the City has the authority to approve or deny modifications in the form of building permits and to enforce violation based on complaints received.~~

~~Chair Thnay opened the public hearing at 8:21 p.m.~~

~~Mr. Steve Miller, Executive Director for the Stonebrae County Club Development, thanked City staff; clarified changes made to the guidelines, and indicated concurrence with the changes~~

Raj Chabra
Attorney at Law

(925) 283-7088
(925) 283-5023 (fax)

December 23, 2005

City of Hayward
City Council

Re: Occupancy of Tattoo Studio at 22540 Foothill Boulevard

12/29/05 09:04 CLX

Dear Honorable Members of the Council:

I apologize for not being in attendance tonight. I had a long planned trip out of the country.

My family has owned the building Corey Hensley is trying to start his business in since 1985. In those twenty years, we've watched Downtown Hayward struggle, but have always remained optimistic of the great potential for the area. I am very cognizant of how difficult it is to improve the image of the area. With the prospect of the opening of the movie theatre complex, we are more optimistic than ever that downtown will blossom.

About four or five years ago, I actually turned down a tattoo studio that wanted to locate in the building. I also turned down the cannabis folks who wanted to take over the space. I am as careful as possible in trying to keep tenants who will improve the area, difficult as that has been. The space I leased to Corey has been vacant for well over a year. I actually did not extend the prior tenant's occupancy, though they wanted to stay. That tenant, an alcoholic rehabilitation group was well meaning which is the reason I rented to them initially, but their clientele created loitering problems that I saw no effective way of dealing with.

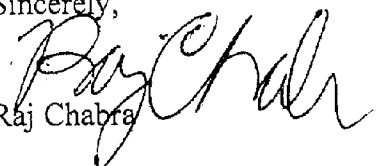
My reasons for supporting Corey are two-fold. First, I believe that tattoos and piercing has become very mainstream in the under 30 age crowd. While I had been worried about "attracting the wrong crowd," I don't view things the same way now because tattoos and piercing are so prevalent in college age kids, as well as people younger and older. Second, I see Corey as highly responsible and dedicated to creating a first class facility.

We are planning to submit façade improvements for the building later this year. As a landlord, I am committed to improving with the area. I think Corey is sincere in wanting to be a positive business in downtown and I am optimistic he will do so. I hope you give him your support.

cc: Mayor, City Council,
City Manager, and
Dept. Planning

Fwd: 12/29/05 ml

Sincerely,


Raj Chabra



Individuals
Couples
Families
Children

Lucia Arce, Psy.D.

Psychotherapist
Lic. # MFC 30269

(510) 582-2389

P.O. Box 3244

San Leandro, CA 94578

January 4, 2006

Attention: Arlynn J. Camire, AICP
City of Hayward, Planning Division
FAX: 510 583-3649

Re: Tatoo & Piercing Permit

Dear Ms. Camire:

I agree with the City's decision to deny the permit for the Tatoo & Piercing establishment as requested by Corey and Kelly Hensley.

I am a licensed psychotherapist who works with children and families next door to the property where this establishment would have operated. Such establishment would be an unhealthy environment for the population that I serve.

The office next door to me is also used for the same business as mine. My colleague and I have chosen to work with low income families, making it difficult for us to move to a more expensive location. As it is at this time, there is a medical marijuana club that causes some unease among the families that I serve.

The approval of a tatoo establishment would make this neighborhood unbearable for businesses that are trying to make Hayward a better city for all.

Therefore, I support the City's decision to deny such permits and would be very disappointed to if the appeal would lead to the granting of a Tatoo & Piercing Permit.

Sincerely,

Lucia Arce
Doctor of Psychology

1122 B Street, Suite 204
Hayward, CA 94541

Arlynn Camire

From: Chris Zaballos [czaballos@pacbell.net]
Sent: Wednesday, January 04, 2006 10:39 AM
To: Arlynn Camire
Subject: Tatoo Studio

Arlynn,

I received the notice of appeal of the Planning Commission's decision to deny the Tattoo & Piercing Studio on Foothill Boulevard between A & B.

I ask that City Staff deny the request as this use is not in keeping with trying to develop a positive and vibrant downtown. In addition, Hayward already hosts several tattoo & piercing studios as well as medical marijuana clinics that in my opinion are counter-productive to the efforts made to attract retail-oriented businesses to our downtown core.

Sincerely,

Christian Zaballos
R. Zaballos & Sons, Inc.

1/5/2006

FINDINGS FOR DENIAL
Use Permit Application No. PL-2005-0552
Corey and Kelly Hensley (Applicants)
Raj Chabra (Owner)
22540 Foothill Boulevard, Unit A

1. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.
2. The tattoo and piercing parlor is not desirable for the public convenience or welfare in that adequate tattoo and piercing services exist in the downtown area to meet the desires of residents and customers who seek such body adornments, since two existing tattoo parlor establishments, located at 22636 Mission Boulevard and 22431 Foothill Boulevard, are within approximately 1,000 feet of the proposed establishment.
3. An additional tattoo and piercings parlor will impair the character and integrity of the adjacent commercial businesses and zoning district, which are located in the City's Downtown Redevelopment Project area, in that the use would not be conducive to encouraging pedestrian activity and a varied retail climate, such as would the proposed Cinema Place project located across Foothill Boulevard, since tattoo parlors typically operate by appointments only and have limited or no business associated with pedestrian activity.
4. The tattoo and piercing parlor will not be in harmony with applicable City policies of the Zoning Ordinance and General Plan in that the services provided by such use will not further help to establish a mix of business and other activities that will enhance the economic vitality of the downtown area, in that there are already two tattoo establishments in the Downtown that provide similar services.

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 06-

Introduced by Council Member _____

mal
1/5/06

**RESOLUTION DENYING THE APPEAL AND UPHOLDING
THE PLANNING COMMISSION'S DENIAL OF USE PERMIT
NO. PL-2005-0557**

WHEREAS, Corey and Kelly Hensley (Applicant) and Raj Chabra (Owner) have applied for Use Permit No. PL-2005-0557, which concerns a request to operate a tattoo and piercing establishment at a retail/office complex located at 22540 Foothill Boulevard, Unit A; and

WHEREAS, at its meeting of November 18, 2005, the Planning Commission denied the project; and

WHEREAS, the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to section 15301, Existing Facilities; and

WHEREAS, the City Council of the City of Hayward hereby finds and determines:

1. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, Existing Facilities.
2. The tattoo and piercing parlor is not desirable for the public convenience or welfare in that tattoo and piercing services exist in the downtown meeting the body adornment needs of residents and customers, since two existing tattoo parlor establishments, located at 22636 Mission Boulevard and 22431 Foothill Boulevard, are within approximately 1,000 feet of the proposed establishment.
3. An additional tattoo and piercing parlor will impair the character and integrity of the adjacent commercial businesses, located in the City's Downtown Redevelopment Project area, and zoning district, in that the use would not be conducive to encouraging pedestrian activity and a varied retail climate, such as would the proposed Cinema Place project located across Foothill Boulevard, since tattoo parlors typically operate by appointments only and have limited or no business associated with pedestrian activity.

4. The tattoo and piercing parlor will not be in harmony with applicable City policies of the Zoning Ordinance and General Plan in that the services provided by such use will not help to establish a mix of business and other activities that will enhance the economic vitality of the Downtown area, in that there are already two tattoo establishments in the Downtown that provide similar services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the appeal of the Planning Commission's denial of Use Permit No. PL 2005-0557, is denied, and the Planning Commission's denial of the project is upheld.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward